

1-1 By: Nelson S.B. No. 20
 1-2 (In the Senate - Filed March 9, 2015; March 9, 2015, read
 1-3 first time and referred to Committee on Finance; March 25, 2015,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 14, Nays 0; March 25, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Hinojosa	X			
1-9 Bettencourt	X			
1-10 Eltife	X			
1-11 Hancock	X			
1-12 Huffman	X			
1-13 Kolthorst	X			
1-14 Nichols	X			
1-15 Schwertner	X			
1-16 Seliger	X			
1-17 Taylor of Galveston	X			
1-18 Uresti	X			
1-19 Watson	X			
1-20 West	X			
1-21 Whitmire			X	

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 20 By: Nelson

1-24 A BILL TO BE ENTITLED
 1-25 AN ACT

1-26 relating to state agency contracting; creating an offense.
 1-27 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-28 SECTION 1. Section 321.013, Government Code, is amended by
 1-29 adding Subsections (k) and (l) to read as follows:
 1-30 (k) In devising the audit plan under Subsection (c), the
 1-31 State Auditor shall consider the performance of audits on contracts
 1-32 entered into by the Health and Human Services Commission that
 1-33 exceed \$100 million in annual value, including a contract between
 1-34 the commission and a managed care organization. The State Auditor
 1-35 shall collaborate with the financial managers in the Medicaid/CHIP
 1-36 Division of the commission in performing an audit described by this
 1-37 subsection. An audit described by this subsection:
 1-38 (1) may be limited in scope to target an area of the
 1-39 contract that the State Auditor determines poses the highest
 1-40 financial risk to this state; and
 1-41 (2) must determine whether the entity contracting with
 1-42 the commission has spent state money in accordance with the
 1-43 purposes authorized in the contract.
 1-44 (l) The State Auditor may contract with a private auditor to
 1-45 audit a contract under Subsection (k).
 1-46 SECTION 2. Subchapter B, Chapter 403, Government Code, is
 1-47 amended by adding Section 403.03057 to read as follows:
 1-48 Sec. 403.03057. CENTRALIZED STATE PURCHASING STUDY.
 1-49 (a) The comptroller, in cooperation with the governor's budget and
 1-50 policy staff, shall conduct a study examining the feasibility and
 1-51 practicality of consolidating state purchasing functions into
 1-52 fewer state agencies or one state agency. The study must examine
 1-53 the cost savings to this state that may be achieved through:
 1-54 (1) abolishing offices or departments of state
 1-55 agencies that have a dedicated office or department for purchasing;
 1-56 and
 1-57 (2) consolidating or reducing the number of vendors
 1-58 authorized to contract with this state to allow this state to better
 1-59 leverage its purchasing power.
 1-60 (b) The comptroller shall prepare and deliver to the

2-1 governor, the lieutenant governor, and each member of the
2-2 legislature a report on the findings of the study conducted under
2-3 Subsection (a), including:

2-4 (1) a detailed projection of expected savings or costs
2-5 to this state in consolidating state purchasing;

2-6 (2) a report on the process for the legislature or the
2-7 executive branch to implement the consolidation of state
2-8 purchasing;

2-9 (3) a list of state agencies, including dedicated
2-10 offices or departments in those agencies, with purchasing
2-11 responsibilities; and

2-12 (4) the total cost to this state of the purchasing
2-13 responsibilities for each state agency, including the dedicated
2-14 office or department in the agency with purchasing responsibility.

2-15 (c) The comptroller shall prepare, deliver, and post on the
2-16 comptroller's Internet website the report required by this section
2-17 not later than December 31, 2016.

2-18 (d) This section expires January 1, 2018.

2-19 SECTION 3. Subchapter L, Chapter 441, Government Code, is
2-20 amended by adding Section 441.1855 to read as follows:

2-21 Sec. 441.1855. RETENTION OF CONTRACT AND RELATED DOCUMENTS
2-22 BY STATE AGENCIES. Notwithstanding Section 441.185 or 441.187, a
2-23 state agency:

2-24 (1) shall retain in its records each contract entered
2-25 into by the state agency and all contract solicitation documents
2-26 related to the contract; and

2-27 (2) may destroy the contract and documents only after
2-28 the fourth anniversary of the date the contract is completed or
2-29 expires.

2-30 SECTION 4. Subchapter C, Chapter 572, Government Code, is
2-31 amended by adding Section 572.069 to read as follows:

2-32 Sec. 572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER
2-33 OR EMPLOYEE RESTRICTED; CRIMINAL PENALTY. (a) A former state
2-34 officer or employee of a state agency who during the period of state
2-35 service or employment participated on behalf of a state agency in a
2-36 procurement or contract negotiation involving a person may not
2-37 accept employment from that person before the second anniversary of
2-38 the date the officer's or employee's service or employment with the
2-39 state agency ceased.

2-40 (b) An individual commits an offense if the individual
2-41 violates this section. An offense under this subsection is a Class
2-42 A misdemeanor.

2-43 SECTION 5. Section 2101.001(1), Government Code, is amended
2-44 to read as follows:

2-45 (1) "Enterprise resource planning" includes the
2-46 administration of a state agency's:

- 2-47 (A) general ledger;
- 2-48 (B) accounts payable;
- 2-49 (C) accounts receivable;
- 2-50 (D) budgeting;
- 2-51 (E) inventory;
- 2-52 (F) asset management;
- 2-53 (G) billing;
- 2-54 (H) payroll;
- 2-55 (I) projects;
- 2-56 (J) grants;
- 2-57 (K) human resources, including administration of

2-58 performance measures, time spent on tasks, and other personnel and
2-59 labor issues; and

2-60 (L) purchasing, including solicitations and
2-61 contracting.

2-62 SECTION 6. Section 2101.035, Government Code, is amended by
2-63 adding Subsection (i) to read as follows:

2-64 (i) State agencies shall report contract and purchasing
2-65 information in the uniform manner required by the comptroller.

2-66 SECTION 7. Section 2101.036, Government Code, is amended by
2-67 adding Subsection (e) to read as follows:

2-68 (e) Notwithstanding Subsection (d), a state agency in the
2-69 legislative branch may elect to participate in the enterprise

3-1 resource planning system developed under this section.

3-2 SECTION 8. Section 2155.078, Government Code, is amended by
3-3 amending Subsections (a) and (b) and adding Subsection (a-1) to
3-4 read as follows:

3-5 (a) The commission shall establish and administer a system
3-6 of training, continuing education, and certification for state
3-7 agency purchasing personnel. The training and continuing education
3-8 for state agency purchasing personnel must include ethics training.

3-9 The commission may establish and offer appropriate training to
3-10 vendors on a cost recovery basis. The commission may adopt rules to
3-11 administer this section, including rules relating to monitoring a
3-12 certified purchaser's compliance with the continuing education
3-13 requirements of this section.

3-14 (a-1) The training, continuing education, and certification
3-15 required under Subsection (a) must include:

3-16 (1) training on the selection of an appropriate
3-17 procurement method by project type; and

3-18 (2) training conducted by the Department of
3-19 Information Resources on purchasing technologies.

3-20 (b) Notwithstanding [Except as provided by] Subsection (n),
3-21 all state agency purchasing personnel, including agencies exempted
3-22 from the purchasing authority of the commission, must receive the
3-23 training and continuing education to the extent required by rule of
3-24 the commission. The training and continuing education must include
3-25 ethics training. A state agency employee who is required to receive
3-26 the training may not participate in purchases by the employing
3-27 agency unless the employee has received the required training or
3-28 received equivalent training from a national association
3-29 recognized by the commission. The equivalent training may count,
3-30 as provided by Subsection (k), toward the continuing education
3-31 requirements.

3-32 SECTION 9. Subchapter B, Chapter 2155, Government Code, is
3-33 amended by adding Sections 2155.089 and 2155.090 to read as
3-34 follows:

3-35 Sec. 2155.089. REPORTING VENDOR PERFORMANCE. (a) After a
3-36 contract is completed or otherwise terminated, each state agency
3-37 shall review the vendor's performance under the contract.

3-38 (b) The state agency shall report to the comptroller, using
3-39 the tracking system described by Section 2155.090, on the results
3-40 of the review regarding a vendor's performance under a contract.

3-41 (c) This section does not apply to an enrollment contract
3-42 described by 1 T.A.C. Section 391.183 as that section existed on
3-43 September 1, 2015.

3-44 Sec. 2155.090. VENDOR PERFORMANCE TRACKING SYSTEM.

3-45 (a) The comptroller shall evaluate a vendor's performance based on
3-46 the information reported under Section 2155.089 and criteria
3-47 established by the comptroller.

3-48 (b) The comptroller shall establish an evaluation process
3-49 that allows vendors who receive an unfavorable performance review
3-50 to protest any classification given by the comptroller.

3-51 (c) The comptroller shall include the performance reviews
3-52 in a vendor performance tracking system.

3-53 (d) A state agency may use the vendor performance tracking
3-54 system to determine whether to award a contract to a vendor reviewed
3-55 in the database.

3-56 (e) The comptroller shall make the vendor performance
3-57 tracking system accessible to the public on the comptroller's
3-58 Internet website.

3-59 SECTION 10. Subchapter I, Chapter 2155, Government Code, is
3-60 amended by adding Section 2155.5035 to read as follows:

3-61 Sec. 2155.5035. USE OF SCHEDULE BY STATE AGENCY. (a) A
3-62 state agency purchasing goods or services under a contract listed
3-63 on the schedule:

3-64 (1) for a purchase with a value of \$50,000 or less,
3-65 shall directly award a contract to a vendor included on the schedule
3-66 without submission of a request for pricing to other vendors on the
3-67 list;

3-68 (2) for a purchase with a value of more than \$50,000
3-69 but not more than \$150,000, shall submit a request for pricing to at

4-1 least three vendors included on the schedule in the category to
 4-2 which the purchase relates;

4-3 (3) for a purchase with a value of more than \$150,000
 4-4 but not more than \$1 million, shall submit a request for pricing to
 4-5 at least six vendors included on the schedule in the category to
 4-6 which the purchase relates or all vendors on the schedule if the
 4-7 category has fewer than six vendors; and

4-8 (4) may not purchase under the contract goods or
 4-9 services that have a total value exceeding \$1 million.

4-10 (b) The price listed for a good or service under a multiple
 4-11 award contract is a maximum price. A state agency may negotiate a
 4-12 lower price for goods or services under a contract listed on a
 4-13 schedule developed under this chapter.

4-14 SECTION 11. Section 2155.504, Government Code, is amended
 4-15 to read as follows:

4-16 Sec. 2155.504. USE OF SCHEDULE BY GOVERNMENTAL ENTITIES.

4-17 (a) A [~~state agency or~~] local government may purchase goods or
 4-18 services directly from a vendor under a contract listed on a
 4-19 schedule developed under this subchapter. A purchase authorized by
 4-20 this section satisfies any requirement of state law relating to
 4-21 competitive bids or proposals and satisfies any applicable
 4-22 requirements of Chapter 2157.

4-23 (b) The price listed for a good or service under a multiple
 4-24 award contract is a maximum price. A [~~An agency or~~] local
 4-25 government may negotiate a lower price for goods or services under a
 4-26 contract listed on a schedule developed under this subchapter.

4-27 SECTION 12. Section 2157.068, Government Code, is amended
 4-28 by adding Subsections (e-1) and (e-2) to read as follows:

4-29 (e-1) A state agency contracting to purchase a commodity
 4-30 item shall use the list maintained as required by Subsection (e) as
 4-31 follows:

4-32 (1) for a contract with a value of \$50,000 or less, the
 4-33 agency may directly award the contract to a vendor included on the
 4-34 list without submission of a request for pricing to other vendors on
 4-35 the list;

4-36 (2) for a contract with a value of more than \$50,000
 4-37 but not more than \$150,000, the agency must submit a request for
 4-38 pricing to at least three vendors included on the list in the
 4-39 category to which the contract relates; and

4-40 (3) for a contract with a value of more than \$150,000
 4-41 but not more than \$1 million, the agency must submit a request for
 4-42 pricing to at least six vendors included on the list in the category
 4-43 to which the contract relates or all vendors on the schedule if the
 4-44 category has fewer than six vendors.

4-45 (e-2) A state agency may not enter into a contract to
 4-46 purchase a commodity item if the value of the contract exceeds \$1
 4-47 million.

4-48 SECTION 13. Subchapter B, Chapter 2157, Government Code, is
 4-49 amended by adding Section 2157.0685 to read as follows:

4-50 Sec. 2157.0685. CONTRACT REQUIREMENTS FOR CERTAIN
 4-51 SERVICES. (a) In this section, "statement of work" means a
 4-52 document that states the requirements for a contract, including
 4-53 deliverables, performance specifications, and other requirements,
 4-54 specific to the vendor under that contract that are not specified in
 4-55 a contract awarded by the department under Section 2157.068 for
 4-56 contracts more than \$50,000.

4-57 (b) For a contract awarded by the department under Section
 4-58 2157.068 that requires a state agency to develop and execute a
 4-59 statement of work to initiate services under the contract, the
 4-60 state agency must:

4-61 (1) consult with the department before submission of
 4-62 the statement of work to a vendor; and

4-63 (2) post each statement of work entered into by the
 4-64 agency on the agency's Internet website in the manner required by
 4-65 department rule.

4-66 (c) A statement of work executed by a state agency under a
 4-67 contract awarded by the department under Section 2157.068 is not
 4-68 valid and money may not be paid to the vendor under the terms of the
 4-69 statement of work unless the department first signs the statement

5-1 of work.

5-2 SECTION 14. Subchapter Z, Chapter 2252, Government Code, is
5-3 amended by adding Section 2252.9011 to read as follows:

5-4 Sec. 2252.9011. EMPLOYMENT OF OR CONTRACTS WITH FORMER OR
5-5 RETIRED PRIVATE VENDOR EMPLOYEES. A state agency may not hire, or
5-6 enter into an employment contract, a professional services contract
5-7 under Chapter 2254, or a consulting services contract under Chapter
5-8 2254 with, an individual who is a former or retired employee of a
5-9 private vendor under which the individual will perform services for
5-10 the agency related to the individual's former duties for the vendor
5-11 for which the vendor contracted with the agency before the second
5-12 anniversary of the last date on which the individual was employed by
5-13 the private vendor.

5-14 SECTION 15. Section 2261.001(a), Government Code, is
5-15 amended to read as follows:

5-16 (a) This chapter, other than Subchapter F, applies only to
5-17 each procurement of goods or services made by a state agency that is
5-18 neither made by the comptroller nor made under purchasing authority
5-19 delegated to the agency by or under Section 51.9335 or 73.115,
5-20 Education Code, or Section 2155.131 or 2155.132.

5-21 SECTION 16. Chapter 2261, Government Code, is amended by
5-22 adding Subchapter F to read as follows:

5-23 SUBCHAPTER F. ETHICS, REPORTING, AND APPROVAL REQUIREMENTS FOR
5-24 CERTAIN CONTRACTS

5-25 Sec. 2261.251. APPLICABILITY OF SUBCHAPTER.
5-26 Notwithstanding Section 2261.001, this subchapter applies to an
5-27 institution of higher education acquiring goods or services under
5-28 Section 51.9335 or 73.115, Education Code.

5-29 Sec. 2261.252. DISCLOSURE OF POTENTIAL CONFLICTS OF
5-30 INTEREST; CERTAIN CONTRACTS PROHIBITED. (a) Each state agency
5-31 employee or official who is involved in procurement or in contract
5-32 management for a state agency shall disclose to the agency any
5-33 potential conflict of interest specified by state law or agency
5-34 policy that is known by the employee or official with respect to any
5-35 contract with a private vendor or bid for the purchase of goods or
5-36 services from a private vendor by the agency.

5-37 (b) A state agency may not enter into a contract for the
5-38 purchase of goods or services with a private vendor with whom any of
5-39 the following agency employees or officials have a financial
5-40 interest:

5-41 (1) a member of the agency's governing body;
5-42 (2) the governing official, executive director,
5-43 general counsel, chief procurement officer, or procurement
5-44 director of the agency; or

5-45 (3) a family member related to an employee or official
5-46 described by Subdivision (1) or (2) within the second degree by
5-47 affinity or consanguinity.

5-48 (c) A state agency employee or official has a financial
5-49 interest in a person if the employee or official:

5-50 (1) owns or controls, directly or indirectly, an
5-51 ownership interest of at least one percent in the person, including
5-52 the right to share in profits, proceeds, or capital gains; or

5-53 (2) could reasonably foresee that a contract with the
5-54 person could result in a financial benefit to the employee or
5-55 official.

5-56 (d) A financial interest prohibited by this section does not
5-57 include a retirement plan, a blind trust, insurance coverage, or an
5-58 ownership interest of less than one percent in a corporation.

5-59 Sec. 2261.253. REQUIRED POSTING OF CERTAIN CONTRACTS;
5-60 ENHANCED CONTRACT AND PERFORMANCE MONITORING. (a) For each
5-61 contract for the purchase of goods or services from a private
5-62 vendor, each state agency shall post on its Internet website:

5-63 (1) each contract the agency enters into, including
5-64 contracts entered into without inviting, advertising for, or
5-65 otherwise requiring competitive bidding before selection of the
5-66 contractor, until the contract expires or is completed;

5-67 (2) the statutory or other authority under which a
5-68 contract that is not competitively bid under Subdivision (1) is
5-69 entered into without compliance with competitive bidding

6-1 procedures; and

6-2 (3) the request for proposals related to a
6-3 competitively bid contract included under Subdivision (1) until the
6-4 contract expires or is completed.

6-5 (b) A state agency monthly may post contracts described by
6-6 Subsection (a) that are valued at less than \$15,000.

6-7 (c) Each state agency by rule shall establish a procedure to
6-8 identify each contract that requires enhanced contract or
6-9 performance monitoring and submit information on the contract to
6-10 the agency's governing body or, if the agency is not governed by a
6-11 multimember governing body, the officer who governs the agency.
6-12 The agency's contract management office or procurement director
6-13 shall immediately notify the agency's governing body or governing
6-14 official, as appropriate, of any serious issue or risk that is
6-15 identified with respect to a contract monitored under this
6-16 subsection.

6-17 (d) This section does not apply to a memoranda of
6-18 understanding, interagency contract, interlocal agreement, or
6-19 contract for which there is not a cost.

6-20 Sec. 2261.254. CONTRACTS WITH VALUE EXCEEDING \$1 MILLION.

6-21 (a) For each contract for the purchase of goods or services that
6-22 has a value exceeding \$1 million, a state agency shall develop and
6-23 implement contract reporting requirements that provide information
6-24 on:

6-25 (1) compliance with financial provisions and delivery
6-26 schedules under the contract;

6-27 (2) corrective action plans required under the
6-28 contract and the status of any active corrective action plan; and

6-29 (3) any liquidated damages assessed or collected under
6-30 the contract.

6-31 (b) Each state agency shall verify:

6-32 (1) the accuracy of any information reported under
6-33 Subsection (a) that is based on information provided by a
6-34 contractor; and

6-35 (2) the delivery time of goods or services scheduled
6-36 for delivery under the contract.

6-37 (c) Except as provided by Subsection (d), a state agency may
6-38 enter into a contract for the purchase of goods or services that has
6-39 a value exceeding \$1 million only if:

6-40 (1) the governing body of the state agency approves
6-41 the contract and the approved contract is signed by the presiding
6-42 officer of the governing body; or

6-43 (2) for a state agency that is not governed by a
6-44 multimember governing body, the officer who governs the agency
6-45 approves and signs the contract.

6-46 (d) The governing body or governing official of a state
6-47 agency, as appropriate, may delegate to the executive director of
6-48 the agency the approval and signature authority under Subsection
6-49 (c).

6-50 (e) A highway construction or maintenance contract that is
6-51 awarded by the Texas Department of Transportation under Subchapter
6-52 A, Chapter 223, Transportation Code, is not required to be signed by
6-53 a member of the Texas Transportation Commission or the executive
6-54 director of the department. This exception does not apply to
6-55 expedited highway improvement contracts under Subchapter C,
6-56 Chapter 223, Transportation Code, a comprehensive development
6-57 agreement entered into under Subchapter E, Chapter 223,
6-58 Transportation Code, a design-build contract entered into under
6-59 Subchapter F, Chapter 223, Transportation Code, or any other
6-60 contract entered into by the Texas Department of Transportation.

6-61 Sec. 2261.255. CONTRACTS WITH VALUE EXCEEDING \$5 MILLION.
6-62 For each state agency contract for the purchase of goods or services
6-63 that has a value exceeding \$5 million, the contract management
6-64 office or procurement director of the agency must:

6-65 (1) verify in writing that the solicitation and
6-66 purchasing methods and contractor selection process comply with
6-67 state law and agency policy; and

6-68 (2) submit to the governing body of the agency, or
6-69 governing official of the agency if the agency is not governed by a

7-1 multimember governing body, information on any potential issue that
 7-2 may arise in the solicitation, purchasing, or contractor selection
 7-3 process.

7-4 Sec. 2261.256. RISK ANALYSIS PROCEDURE; CONTRACT
 7-5 MANAGEMENT HANDBOOK. (a) Each state agency shall develop and
 7-6 comply with a risk analysis procedure. The procedure must provide
 7-7 for:

7-8 (1) assessing the risk of fraud, abuse, or waste in the
 7-9 contractor selection process, contract provisions, and payment and
 7-10 reimbursement rates and methods for the different types of goods
 7-11 and services for which the agency contracts; and

7-12 (2) identifying contracts that require enhanced
 7-13 contract monitoring.

7-14 (b) Each state agency shall publish a contract management
 7-15 handbook that establishes consistent contracting policies and
 7-16 practices to be followed by the agency and that is consistent with
 7-17 the comptroller's contract management guide. The agency handbook
 7-18 may include standard contract provisions and formats for the agency
 7-19 to incorporate in contracts.

7-20 Sec. 2261.257. CONTRACT DATABASE. (a) Each state agency
 7-21 that becomes a participant in the centralized accounting and
 7-22 payroll systems as authorized by Sections 2101.035 and 2101.036
 7-23 shall use the system to identify and record each contract entered
 7-24 into by the agency as specified by the rules, policies, or
 7-25 procedures developed by the comptroller.

7-26 (b) The comptroller shall provide as necessary information
 7-27 and state agency contract data contained in the centralized
 7-28 accounting and payroll systems to other state agencies with
 7-29 oversight duties, including the Legislative Budget Board, the state
 7-30 auditor's office, and the Department of Information Resources.

7-31 SECTION 17. Section 2262.101, Government Code, as amended
 7-32 by Chapters 676 (H.B. 1965) and 1227 (S.B. 1681), Acts of the 83rd
 7-33 Legislature, Regular Session, 2013, is reenacted and amended to
 7-34 read as follows:

7-35 Sec. 2262.101. CREATION; DUTIES. (a) The Contract
 7-36 Advisory Team is created to assist state agencies in improving
 7-37 contract management practices by:

7-38 (1) reviewing and making recommendations on the
 7-39 solicitation documents and contract documents for contracts of
 7-40 state agencies that have a value of at least \$10 million;

7-41 (2) reviewing any findings or recommendations made by
 7-42 the state auditor, including those made under Section 2262.052(b),
 7-43 regarding a state agency's compliance with the contract management
 7-44 guide;

7-45 (3) providing recommendations to the comptroller
 7-46 regarding:

7-47 (A) the development of the contract management
 7-48 guide; and

7-49 (B) the training under Section 2262.053;

7-50 (4) providing recommendations and assistance to state
 7-51 agency personnel throughout the contract management process;

7-52 (5) coordinating and consulting with the quality
 7-53 assurance team established under Section 2054.158 on all contracts
 7-54 relating to a major information resources project; ~~and~~

7-55 ~~(6) [(4)]~~ developing and recommending policies and
 7-56 procedures to improve state agency contract management practices;

7-57 ~~(7) [(5)]~~ developing and recommending procedures to
 7-58 improve state agency contracting practices by including
 7-59 consideration for best value; ~~and~~

7-60 ~~(8) [(6)]~~ creating and periodically performing a risk
 7-61 assessment to determine the appropriate level of management and
 7-62 oversight of contracts by state agencies; and

7-63 (9) after being notified by a state agency of a change
 7-64 order, contract amendment, contract renewal or extension, or other
 7-65 proposed action that would result in a change to the monetary value
 7-66 of a contract reviewed under Subdivision (1) by more than 20
 7-67 percent, reviewing the justification for the change order, contract
 7-68 amendment, contract renewal or extension, or other proposed action,
 7-69 as applicable, to:

8-1 (A) determine whether the justification is
 8-2 reasonable considering the circumstances; and

8-3 (B) if the team determines the justification is
 8-4 not reasonable, contact the state agency for additional
 8-5 justification, and if not satisfactory, forward the contract to the
 8-6 comptroller for notification under Subsection (h).

8-7 (b) The risk assessment created and performed [~~reviewed~~]
 8-8 under Subsection (a)(8) [~~(a)(6)~~] must include [~~, but is not limited~~
 8-9 ~~to~~] the following criteria:

8-10 (1) the amount of appropriations to the agency;

8-11 (2) total contract value as a percentage of
 8-12 appropriations to the agency; and [~~or~~]

8-13 (3) the impact of the functions and duties of the state
 8-14 agency on the health, safety, and well-being of residents
 8-15 [~~citizens~~].

8-16 (c) The comptroller shall oversee the activities of the
 8-17 team, including ensuring that the team carries out its duties under
 8-18 Subsections (a)(1), [~~Subsection~~] (a)(5), and (a)(7).

8-19 (d) A state agency shall:

8-20 (1) comply with a recommendation made under Subsection
 8-21 (a)(1); or

8-22 (2) submit a written explanation regarding why the
 8-23 recommendation is not applicable to the contract under review.

8-24 (e) The team may review documents under Subsection (a)(1)
 8-25 only for compliance with contract management and best practices
 8-26 principles and may not make a recommendation regarding the purpose
 8-27 or subject of the contract.

8-28 (f) The team may develop an expedited process for reviewing
 8-29 solicitations under Subsection (a)(1) for contracts:

8-30 (1) that the team identifies as posing a low risk of
 8-31 loss to the state; or

8-32 (2) for which templates will be used more than once by
 8-33 a state agency.

8-34 (g) A state agency that notifies the team of a change order,
 8-35 contract amendment, contract renewal or extension, or other
 8-36 proposed action under Subsection (a)(9) must include with the
 8-37 notification a justification for the proposed action in the form
 8-38 and containing the information specified by the team.

8-39 (h) The comptroller shall, for each contract of a state
 8-40 agency forwarded under Subsection (a)(9), notify:

8-41 (1) the governing body of the agency or the single
 8-42 state officer who governs the agency;

8-43 (2) the Legislative Budget Board; and

8-44 (3) each member of the senate and house of
 8-45 representatives.

8-46 SECTION 18. Section 2262.102(a), Government Code, is
 8-47 amended to read as follows:

8-48 (a) The team consists of the following nine [~~six~~] members:

8-49 (1) one member from the Health and Human Services
 8-50 Commission;

8-51 (2) one member from the comptroller's office;

8-52 (3) one member from the Department of Information
 8-53 Resources;

8-54 (4) one member from the Texas Facilities Commission;

8-55 (5) one member from the governor's office; [~~and~~]

8-56 (6) one member from a small state agency;

8-57 (7) one member from the Texas Department of
 8-58 Transportation;

8-59 (8) one member from the Texas Education Agency; and

8-60 (9) one member from the Texas Commission on
 8-61 Environmental Quality.

8-62 SECTION 19. Subchapter C, Chapter 2262, Government Code, is
 8-63 amended by adding Section 2262.105 to read as follows:

8-64 Sec. 2262.105. QUARTERLY REPORT TO LEGISLATIVE BUDGET
 8-65 BOARD. The contract advisory team shall submit a quarterly report
 8-66 to the Legislative Budget Board on:

8-67 (1) the number of solicitation documents and contracts
 8-68 reviewed by the team in the preceding quarter; and

8-69 (2) whether state agencies accepted or rejected the

9-1 team's recommendations and any reasons provided by the state
 9-2 agencies for rejecting the recommendations.

9-3 SECTION 20. Section [51.9335](#)(d), Education Code, is amended
 9-4 to read as follows:

9-5 (d) Subject to Section [51.9337](#), Subtitle D, Title 10,
 9-6 Government Code, and Subchapter B, Chapter 2254, Government Code,
 9-7 do not apply to the acquisition of goods and services under this
 9-8 section, except that an institution of higher education must comply
 9-9 with any provision of those laws, or a rule adopted under a
 9-10 provision of those laws, relating to contracting with historically
 9-11 underutilized businesses or relating to the procurement of goods
 9-12 and services from persons with disabilities. An institution of
 9-13 higher education may, but is not required to, acquire goods or
 9-14 services as provided by Subtitle D, Title 10, Government Code.

9-15 SECTION 21. Subchapter Z, Chapter 51, Education Code, is
 9-16 amended by adding Section [51.9337](#) to read as follows:

9-17 Sec. [51.9337](#). PURCHASING AUTHORITY CONDITIONAL; REQUIRED
 9-18 STANDARDS. (a) An institution of higher education may not
 9-19 exercise the acquisition authority granted by Section [51.9335](#) or
 9-20 [73.115](#) unless the institution complies with this section. An
 9-21 institution that is determined under Subsection (j) to not be in
 9-22 compliance with this section is subject to the laws governing
 9-23 acquisition of goods and services by state agencies, including
 9-24 Subtitle D, Title 10, Government Code, and Chapter 2254, Government
 9-25 Code.

9-26 (b) The board of regents of an institution of higher
 9-27 education by rule shall establish for each institution under the
 9-28 management and control of the board:

9-29 (1) a code of ethics for the institution's officers and
 9-30 employees, including provisions governing officers and employees
 9-31 authorized to execute contracts for the institution or to exercise
 9-32 discretion in awarding contracts, subject to Subsection (c);

9-33 (2) policies for the internal investigation of
 9-34 suspected defalcation, misappropriation, and other fiscal
 9-35 irregularities and an institutional or systemwide compliance
 9-36 program designed to promote ethical behavior and ensure compliance
 9-37 with all applicable policies, laws, and rules governing higher
 9-38 education, including research and health care to the extent
 9-39 applicable;

9-40 (3) a contract management handbook that provides
 9-41 consistent contracting policies and practices and contract review
 9-42 procedures, including a risk analysis procedure, subject to
 9-43 Subsection (d);

9-44 (4) contracting delegation guidelines, subject to
 9-45 Subsections (e) and (f);

9-46 (5) training for officers and employees authorized to
 9-47 execute contracts for the institution or to exercise discretion in
 9-48 awarding contracts, including training in ethics, selection of
 9-49 appropriate procurement methods, and information resources
 9-50 purchasing technologies; and

9-51 (6) internal audit protocols, subject to Subsection
 9-52 (g).

9-53 (c) The code of ethics governing an institution of higher
 9-54 education must include:

9-55 (1) general standards of conduct and a statement that
 9-56 each officer or employee is expected to obey all federal, state, and
 9-57 local laws and is subject to disciplinary action for a violation of
 9-58 those laws;

9-59 (2) policies governing conflicts of interest,
 9-60 conflicts of commitment, and outside activities, ensuring that the
 9-61 primary responsibility of officers and employees is to accomplish
 9-62 the duties and responsibilities assigned to that position;

9-63 (3) a conflict of interest policy that prohibits
 9-64 employees from having a direct or indirect financial or other
 9-65 interest, engaging in a business transaction or professional
 9-66 activity, or incurring any obligation that is in substantial
 9-67 conflict with the proper discharge of the employee's duties related
 9-68 to the public interest;

9-69 (4) a conflict of commitment policy that prohibits an

10-1 employee's activities outside the institution from interfering
10-2 with the employee's duties and responsibilities to the institution;
10-3 (5) a policy governing an officer's or employee's
10-4 outside activities, including compensated employment and board
10-5 service, that clearly delineates the nature and amount of
10-6 permissible outside activities and that includes processes for
10-7 disclosing the outside activities and for obtaining and documenting
10-8 institutional approval to perform the activities;
10-9 (6) a policy that prohibits an officer or employee
10-10 from acting as an agent for another person in the negotiation of the
10-11 terms of an agreement relating to the provision of money, services,
10-12 or property to the institution;
10-13 (7) a policy governing the use of institutional
10-14 resources; and
10-15 (8) a policy providing for the regular training of
10-16 officers and employees on the policies described by this
10-17 subsection.
10-18 (d) An institution of higher education shall establish
10-19 contract review procedures and a contract review checklist that
10-20 must be reviewed and approved by the institution's legal counsel
10-21 before implementation. The review procedures and checklist must
10-22 include:
10-23 (1) a description of each step of the procedure that an
10-24 institution must use to evaluate and process contracts;
10-25 (2) a checklist that describes each process that must
10-26 be completed before contract execution; and
10-27 (3) a value threshold that initiates the required
10-28 review by the institution's legal counsel unless the contract is a
10-29 standard contract previously approved by the counsel.
10-30 (e) An institution of higher education's policies governing
10-31 contracting authority must clearly specify the types and values of
10-32 contracts that must be approved by the board of regents and the
10-33 types and values of contracts for which contracting authority is
10-34 delegated by the board to the chief executive officer and by the
10-35 chief executive officer to other officers and employees of the
10-36 institution. An officer or employee may not execute a document for
10-37 the board unless the officer or employee has authority to act for
10-38 the board and the authority is exercised in compliance with
10-39 applicable conditions and restrictions.
10-40 (f) An institution of higher education may not enter into a
10-41 contract with a value of more than \$1 million, including any
10-42 amendment, extension, or renewal of the contract that increases the
10-43 value of the original contract to more than \$1 million, unless the
10-44 institution's board of regents approves the contract, expressly
10-45 delegates authority to exceed that amount, or expressly adopts an
10-46 exception for that contract. The board must approve any amendment,
10-47 extension, or renewal of a contract with a value that exceeds 25
10-48 percent of the value of the original contract approved by the board
10-49 unless the authority to exceed the approved amount is expressly
10-50 delegated by the board or an exception is expressly adopted by the
10-51 board for that contract.
10-52 (g) The board of regents of an institution of higher
10-53 education shall adopt standards for internal audits conducted by
10-54 the institution to provide a systematic, disciplined approach to
10-55 evaluate and improve the effectiveness of the institution's risk
10-56 management, control, and governance processes related to contracts
10-57 and to require risk-based testing of contract administration. The
10-58 internal auditor must have full and unrestricted access to all
10-59 institutional property, personnel, and records. An internal
10-60 auditor must report directly to the board of regents in accordance
10-61 with Chapter 2102, Government Code.
10-62 (h) The chief auditor of an institution of higher education
10-63 shall annually assess whether the institution has adopted the rules
10-64 and policies required by this section and shall submit a report of
10-65 findings to the state auditor. In auditing the purchase of goods
10-66 and services by the institution, the state auditor shall determine
10-67 whether an institution has adopted the required rules and policies.
10-68 (i) If the state auditor determines that an institution of
10-69 higher education has failed to adopt the required rules and

11-1 policies, the auditor shall report that failure to the legislature
11-2 and to the institution's board of regents and shall, in
11-3 consultation with the institution, adopt a remediation plan to
11-4 bring the institution into compliance. If the institution fails to
11-5 comply within the time established by the state auditor, the
11-6 auditor shall find the institution to be in noncompliance and
11-7 report that finding to the legislature and comptroller.

11-8 (j) In accordance with a schedule adopted by the state
11-9 auditor in consultation with the comptroller, the authority of an
11-10 institution of higher education to acquire goods and services as
11-11 provided by Section 51.9335 or 73.115 is suspended if the
11-12 institution fails to comply with the remediation plan under
11-13 Subsection (i) within the time established by the state auditor. As
11-14 a result of the suspension, the laws, including Subtitle D, Title
11-15 10, Government Code, and Chapter 2254, Government Code, governing
11-16 acquisition of goods and services by state agencies from which the
11-17 institution is otherwise exempt, shall apply to the institution's
11-18 acquisition of goods and services.

11-19 SECTION 22. Sections 73.115(e) and (f), Education Code, are
11-20 amended to read as follows:

11-21 (e) To the extent of any conflict, this section prevails
11-22 over any other law relating to the purchasing of goods and services
11-23 other than Section 51.9337 and ~~[except]~~ a law relating to
11-24 contracting with historically underutilized businesses.

11-25 (f) Except as otherwise provided by this section and Section
11-26 51.9337, Subtitle D, Title 10, Government Code, and Chapter 2254,
11-27 Government Code, do not apply to purchases of goods and services
11-28 made under this section.

11-29 SECTION 23. Section 2155.502(d), Government Code, is
11-30 repealed.

11-31 SECTION 24. (a) As soon as is practicable after the
11-32 effective date of this Act, the executive directors of the Texas
11-33 Department of Transportation, the Texas Education Agency, and the
11-34 Texas Commission on Environmental Quality shall each appoint a
11-35 member to the contract advisory team as required by Section
11-36 2262.102, Government Code, as amended by this Act.

11-37 (b) As soon as is practicable after the effective date of
11-38 this Act, the comptroller of public accounts, and each affected
11-39 state agency as necessary, shall adopt the rules and procedures and
11-40 take the actions necessary to implement the changes in law made by
11-41 this Act.

11-42 SECTION 25. To the extent of any conflict, this Act prevails
11-43 over another Act of the 84th Legislature, Regular Session, 2015,
11-44 relating to nonsubstantive additions to and corrections in enacted
11-45 codes.

11-46 SECTION 26. Section 572.069, Government Code, as added by
11-47 this Act, applies only to a state officer or employee whose service
11-48 or employment with a state agency ceases on or after the effective
11-49 date of this Act.

11-50 SECTION 27. The changes in law made by this Act apply only
11-51 to a contract entered into on or after the effective date of this
11-52 Act. A contract entered into before that date is governed by the
11-53 law in effect immediately before the effective date of this Act, and
11-54 the former law is continued in effect for that purpose.

11-55 SECTION 28. This Act takes effect September 1, 2015.

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